

106TH CONGRESS
2D SESSION

H. R. 4864

IN THE SENATE OF THE UNITED STATES

JULY 25, 2000

Received; read twice and referred to the Committee on Veterans' Affairs

AN ACT

To amend title 38, United States Code, to reaffirm and clarify the duty of the Secretary of Veterans Affairs to assist claimants for benefits under laws administered by the Secretary, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Veterans Claims As-
3 sistance Act of 2000”.

4 **SEC. 2. CLARIFICATION OF DEFINITION OF “CLAIMANT”**
5 **FOR PURPOSES OF VETERANS LAWS.**

6 (a) IN GENERAL.—Chapter 51 of title 38, United
7 States Code, is amended by inserting before section 5101
8 the following new section:

9 **“§ 5100. Definition of ‘claimant’**

10 “For purposes of this chapter, the term ‘claimant’
11 means any individual applying for, or submitting a claim
12 for, any benefit under the laws administered by the Sec-
13 retary.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of such chapter is amended by inserting
16 before the item relating to section 5101 the following new
17 item:

“5100. Definition of ‘claimant’.”.

18 **SEC. 3. ASSISTANCE TO CLAIMANTS.**

19 (a) REAFFIRMATION AND CLARIFICATION OF DUTY
20 TO ASSIST.—Chapter 51 of title 38, United States Code,
21 is amended by striking sections 5102 and 5103 and insert-
22 ing the following:

1 **“§ 5102. Applications: forms furnished upon request;**
2 **notice to claimants of incomplete applica-**
3 **tions**

4 “(a) FURNISHING FORMS.—Upon request made in
5 person or in writing by any person claiming or applying
6 for a benefit under the laws administered by the Secretary,
7 the Secretary shall furnish such person, free of all ex-
8 pense, all such printed instructions and forms as may be
9 necessary in establishing such claim.

10 “(b) INCOMPLETE APPLICATIONS.—If a claimant’s
11 application for a benefit under the laws administered by
12 the Secretary is incomplete, the Secretary shall notify the
13 claimant and the claimant’s representative, if any, of the
14 information necessary to complete the application. The
15 Secretary shall notify each claimant of any additional in-
16 formation and medical and lay evidence necessary to sub-
17 stantiate the claim. As part of such notice, the Secretary
18 shall indicate which portion of such evidence, if any, is
19 to be provided by the claimant and which portion of such
20 evidence, if any, the Secretary will attempt to obtain on
21 behalf of the claimant.

22 “(c) TIME LIMITATION.—In the case of evidence that
23 the claimant is notified is to be provided by the claimant,
24 if such evidence is not received by the Secretary within
25 one year from the date of such notification, no benefits
26 may be paid or furnished by reason of such application.

1 “(d) INAPPLICABILITY TO CERTAIN BENEFITS.—
2 This section shall not apply to any application or claim
3 for Government life insurance benefits.

4 **“§ 5103. Applications: Duty to assist claimants**

5 “(a) DUTY TO ASSIST.—The Secretary shall make
6 reasonable efforts to assist in obtaining evidence necessary
7 to establish a claimant’s eligibility for a benefit under a
8 law administered by the Secretary. However, the Secretary
9 may decide a claim without providing assistance under this
10 subsection when no reasonable possibility exists that such
11 assistance will aid in the establishment of eligibility for
12 the benefit sought.

13 “(b) ASSISTANCE IN OBTAINING RECORDS.—(1) As
14 part of the assistance provided under subsection (a), the
15 Secretary shall make reasonable efforts to obtain relevant
16 records that the claimant adequately identifies to the Sec-
17 retary and authorizes the Secretary to obtain.

18 “(2) Whenever the Secretary, after making such rea-
19 sonable efforts, is unable to obtain all of the records
20 sought, the Secretary shall inform the claimant that the
21 Secretary is unable to obtain such records. Such a notice
22 shall—

23 “(A) specifically identify the records the Sec-
24 retary is unable to obtain;

1 “(B) briefly explain the efforts that the Sec-
2 retary made to obtain those records;

3 “(C) describe any further actions to be taken by
4 the Secretary with respect to the claim; and

5 “(D) request the claimant, if the claimant in-
6 tends to attempt to obtain such records independ-
7 ently, to so notify the Secretary within a time period
8 to be specified in the notice.

9 “(c) OBTAINING RECORDS FOR COMPENSATION
10 CLAIMS.—In the case of a claim by a veteran for disability
11 compensation, the assistance provided by the Secretary
12 under subsection (a) shall include obtaining the following
13 records if relevant to the veteran’s claim:

14 “(1) The claimant’s existing service medical
15 records and, if the claimant has furnished informa-
16 tion sufficient to locate such records, other relevant
17 service records.

18 “(2) Existing records of relevant medical treat-
19 ment or examination of the veteran at Department
20 health-care facilities or at the expense of the Depart-
21 ment, if the claimant has furnished information suf-
22 ficient to locate such records.

23 “(3) Information as described in section 5106
24 of this title.

1 “(d) MEDICAL EXAMINATIONS FOR COMPENSATION
2 CLAIMS.—In the case of a claim by a veteran for disability
3 compensation, the assistance provided by the Secretary
4 under subsection (a) shall include providing a medical ex-
5 amination, or obtaining a medical opinion, when the evi-
6 dence of record before the Secretary—

7 “(1) establishes that—

8 “(A) the claimant has—

9 “(i) a current disability;

10 “(ii) current symptoms of a disease
11 that may not be characterized by symp-
12 toms for extended periods of time; or

13 “(iii) persistent or recurrent symp-
14 toms of disability following discharge or re-
15 lease from active military, naval, or air
16 service; and

17 “(B) there was an event, injury, or disease
18 (or combination of events, injuries, or diseases)
19 during the claimant’s active military, naval, or
20 air service capable of causing or aggravating
21 the claimant’s current disability or symptoms,
22 but

23 “(2) is insufficient to establish service-conne-
24 tion of the current disability or symptoms.

1 “(e) REGULATIONS.—The Secretary shall prescribe
2 regulations to carry out this section. Such regulations
3 shall include provisions for—

4 “(1) specifying the evidence necessary under
5 subsection (a) to establish a claimant’s eligibility for
6 a benefit under a law administered by the Secretary;
7 and

8 “(2) determining under subsections (b) and (c)
9 what records are relevant to a claim.

10 “(f) RULE WITH RESPECT TO DISALLOWED
11 CLAIMS.—Nothing in this section shall be construed to re-
12 quire the Secretary to reopen a claim that has been dis-
13 allowed except when new and material evidence is pre-
14 sented or secured, as described in section 5108 of this
15 title.

16 “(g) OTHER ASSISTANCE NOT PRECLUDED.—Noth-
17 ing in this section shall be construed as precluding the
18 Secretary from providing such other assistance to a claim-
19 ant as the Secretary considers appropriate.”.

20 (b) REENACTMENT OF RULE FOR CLAIMANT’S LACK-
21 ING A MAILING ADDRESS.—Chapter 51 of such title is
22 amended by adding at the end the following new section:

1 **“§ 5126. Benefits not to be denied based on lack of**
 2 **mailing address**

3 “Benefits under laws administered by the Secretary
 4 may not be denied a claimant on the basis that the claim-
 5 ant does not have a mailing address.”.

6 (c) CLERICAL AMENDMENTS.—The table of sections
 7 at the beginning of chapter 51 of such title is amended—

8 (1) by striking the items relating to sections
 9 5102 and 5103 and inserting the following:

“5102. Applications: forms furnished upon request; notice to claimants of in-
 complete applications.

“5103. Applications: duty to assist claimants.”;

10 and

11 (2) by adding at the end the following new
 12 item:

“5126. Benefits not to be denied based on lack of mailing address.”.

13 **SEC. 4. BURDEN OF PROOF.**

14 (a) REPEAL OF “WELL-GROUNDED CLAIM” RULE.—
 15 Section 5107 of title 38, United States Code, is amended
 16 to read as follows:

17 **“§ 5107. Burden of proof; benefit of the doubt**

18 “(a) BURDEN OF PROOF.—Except when otherwise
 19 provided by this title or by the Secretary in accordance
 20 with the provisions of this title, a claimant shall have the
 21 burden of proving entitlement to benefits.

22 “(b) BENEFIT OF THE DOUBT.—The Secretary shall
 23 consider all evidence and material of record in a case be-

1 fore the Department with respect to benefits under laws
2 administered by the Secretary and shall give the claimant
3 the benefit of the doubt when there is an approximate bal-
4 ance of positive and negative evidence regarding any issue
5 material to the determination of the matter.”.

6 **SEC. 5. PROHIBITION OF CHARGES FOR RECORDS FUR-**
7 **NISHED BY OTHER FEDERAL DEPARTMENTS**
8 **AND AGENCIES.**

9 Section 5106 of title 38, United States Code, is
10 amended by adding at the end the following new sentence:
11 “No charge may be imposed by the head of any such de-
12 partment or agency for providing such information.”.

13 **SEC. 6. EFFECTIVE DATE.**

14 (a) IN GENERAL.—Except as specifically provided
15 otherwise, the provisions of section 5107 of title 38,
16 United States Code, as amended by section 4 of this Act,
17 apply to any claim—

18 (1) filed on or after the date of the enactment
19 of this Act; or

20 (2) filed before the date of the enactment of
21 this Act and not final as of the date of the enact-
22 ment of this Act.

23 (b) RULE FOR CLAIMS THE DENIAL OF WHICH BE-
24 CAME FINAL AFTER THE COURT OF APPEALS FOR VET-

1 VETERANS CLAIMS DECISION IN THE MORTON CASE.—(1) In
2 the case of any claim for benefits—

3 (A) the denial of which became final during the
4 period beginning on July 14, 1999, and ending on
5 the date of the enactment of this Act; and

6 (B) which was denied or dismissed by the Sec-
7 retary of Veterans Affairs or a court because the
8 claim was not well grounded (as that term was used
9 in section 5107(a) of title 38, United States Code,
10 as in effect during that period),

11 the Secretary of Veterans Affairs shall, upon the request
12 of the claimant, or on the Secretary's own motion, order
13 the claim readjudicated under chapter 51 of such title, as
14 amended by this Act, as if such denial or dismissal had
15 not been made.

16 (2) A claim may not be readjudicated under this sub-
17 section unless the request is filed or the motion made not
18 later than two years after the date of the enactment of
19 this Act.

20 (3) In the absence of a timely request of a claimant,
21 nothing in this Act shall be construed as establishing a
22 duty on the part of the Secretary of Veterans Affairs to
23 locate and readjudicate claims described in this subsection.

Passed the House of Representatives July 25, 2000.

Attest:

JEFF TRANDAHL,

Clerk.